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SUBJECT: PAKISTANI HIGH COMMISSIONER DISCUSSION UNDERSCORES
NEED FOR LOBBYING BEFORE IAEA BOG MEETING

REF: UNVIE 378

Classified By: Ambassador David C. Mulford for Reasons 1.4 (B and D)

¶1. (C) SUMMARY: During the Ambassador's call on him to explain next steps needed to bring the U.S.-India Civil Nuclear Agreement to fruition, Pakistani High Commissioner Shadid Malik focused on the need for the Nuclear Suppliers Group to follow a "criteria-based approach," specifying, "We can only join the consensus if we feel Pakistan is not being discriminated against." The High Commissioner's reluctance to indicate his government's support for quick action in the IAEA highlights the need for high level discussions to encourage Pakistan not to stand in the way of timely progress. (Discussion on the India/Pakistan bilateral relationship is reported septel.) End Summary.

¶2. (C) The Ambassador called on Pakistani High Commissioner Shadid Malik on July 10 to explain U.S. views on the status of the U.S. -India Civil Nuclear Agreement and to encourage Pakistan to support an international consensus to move forward. He laid out a rough timeline for steps that need to be taken quickly if the Agreement is to reach the U.S. Congress in time for the current Congress to take action, and stressed that an international consensus that would not put further caveats on the Agreement is needed. The Ambassador and PolCouns explained the seven steps India will be required to take before the submission can be made, including negotiating an Additional Protocol with the IAEA, and harmonization and adherence with export control standards of the NSG and Missile Technology Control Regime (MTCR). He pointed out that IAEA and Nuclear Suppliers Group (NSG) members had had 16 to 18 months to consider the technical aspects of the Agreement, and stressed that what is needed now are political decisions on the part of capitals to move forward.

¶3. (C) HC Malik responded that the IAEA Board will need time to review the agreement. He stressed that Pakistan would like the NSG to take a "non-discriminatory, criteria-based" approach, rather than a country specific approach. For example, he said, Pakistan has an urgent energy need, as well as India. Referring to non-proliferation arguments, he claimed that Pakistan now has serious safeguards in place. He also pointed out that Pakistan has achieved democracy in the last two to three months. If Pakistan is being refused cooperation because of the legacy of previous events (an oblique reference to A.Q. Khan), he said, it is worth noting that Section 104 of the Hyde Act specifically notes that cooperation with India will not be curtailed in the event of an individual Indian citizen being involved in illicit trade in nuclear material, if there is no evidence of Indian

government involvement. (Note: Section 104(d)(3)(B)(i) states that the President can determine that cooperation could continue in such a case.) The High Commissioner emphasized, "We've been consistent on this policy (arguing for a criteria-based approach), and we think we have a strong case."

¶4. (C) The Ambassador replied that the criteria-based approach had been considered early in discussions on the proposed Civil Nuclear Agreement, but Congress had decided to follow a single-name exception process because it believed it would be impossible to complete verifications on a multi-country basis. When efforts on the Agreement began in 2005, the situation in Pakistan related to proliferation was viewed critically, and the past is controversial. A criteria-based approach is not possible at this time under U.S. law.

¶5. (C) In response to the Ambassador's question as to whether Pakistan would join a consensus of the IAEA Board of Governors if it cannot reach its objectives with the NSG, the High Commissioner replied, "We can only join the consensus if we feel Pakistan is not being discriminated against."

¶6. (C) The High Commissioner also queried why the Indian government wasn't moving faster on the India-Pakistan-Iran pipeline if its goal in pursuing the 123 Agreement was energy security. The Ambassador pointed out that the United States does not support the pipeline concept because of Iran's involvement, and repeated Congressman Ackerman's warning that India runs the risk of stoking acrimony in Congress if it

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proceeds with the project.

¶7. (C) Comment and Action Request: Even though the discussion was cordial, HC Malik's response to the Ambassador indicates that Pakistan may very likely slow progress in the IAEA if it does not receive strong encouragement from the United States to support a consensus for quick action. In the wake of allegations of Pakistani involvement in the bombing of the Indian Embassy in Kabul, and Pakistan's professed enthusiasm about proceeding with confidence building measures with India (septel), we hope that Pakistan will not wish to be seen publicly as stopping progress. Nonetheless, given the number of multilateral hurdles the U.S. and India need to jump to move the Agreement through the IAEA and NSG in a timely manner, we believe it is crucial that we stress the importance the U.S. attaches to the Agreement's success at all levels of the Pakistani government

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